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09/721,093	11/22/2000	Manish Gupta	YOR9-2000-0126-US1	6155

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EXAMINER

GRAHAM, CLEMENT B

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/721,093

Applicant(s)

GUPTA ET AL.

Examiner

Clement B Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3</u> . | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-12, are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two prong test of:

(1) whether the invention is within the technological arts; and

(2) whether the invention produces a useful, concrete and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts. In the present case, claims 1-12, do not recite any structure or functionality to suggest that a computer performs the recited claims. Thus, claims 1-12, are rejected as being directed to non-statutory subject matter.

### Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-31, are rejected under 35 U.S.C. 102(e) as being anticipated by Boarman et al (Hereinafter Boarman U.S Patent 6, 609, 112).

As per claim 1, Boarman discloses a method for generating bids for an auction, the method comprising:

identifying a final equilibrium position for a set of bidding agents.(i. e, participants" see column 5 lines 15-35) and submitting.("i. e, participants system" see column 3 lines 25-45) a bid for each of the bidding agents.("i. e, participants "see column 3 lines 25-30) based on the final equilibrium.(Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).

As per claim 2, Boarman discloses, wherein each of the bidding agents in the set of bidding agents includes an upper limit. (Note Fig: 3b and see column 5 lines 45-50).

As per claim 3, Boarman discloses, wherein the identifying step comprises: sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein bids for the set of bidding agents are sorted using upper limits for the, bids for the set of bidding agents.(Note Fig: 3b and see column 5 lines 60-65 and column 6 line 5) identifying a first bid from the plurality of bids in which an unallocatable portion of a requested quantity is present.(see column 6 lines 30-65) selecting a number of bids from the plurality of bids, wherein the number of bids are higher in the sorted set of bids than the first bid and wherein the number of bids have an allocation requirement less than the unallocatable portion of the of the first bid, and setting a price for the number of bids. (Note Fig: 3b and see column 5 lines 60-65 and column 6 line 5 and column 6 lines 30-65).

As per claim 4, Boarman discloses, wherein the sorting step, identifying step, selecting step, and setting step are repeated for unallocated items, remaining bids, and remaining unpriced order bids. (see column 6 lines 30-40 and column 1 lines 45-60).

As per claim 5, Boarman discloses, a method for generating bids for bidding agents in an auction, the method comprising: sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids includes order bids.(see column 2 lines 45-50 and Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35). identifying a first bid requesting a quantity in which an unallocatable portion is present, selecting a number of order bids from the plurality of bids, wherein the number of order

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bids are higher in the sorted set of bids than the first bid and have an allocation requirement less than the unallocatable portion of the of the first bid, and setting a price for the number of order bids. (see column 6 lines 30-40 and column 1 lines 45-60).

As per claim 6, Boarman discloses wherein the number of order bids is a single order bid.(see column 1 lines 15-20).

As per claim 7, Boarman discloses , wherein each bid in the number of order bids is selected from the plurality of bids based on the allocation requirement, upper limit, and a time when each order bid in the number of order bids was received. (Note Fig: 3b and see column 5 lines 45-50).

As per claim 8, Boarman discloses , wherein each order bid in the number of order bids is selected from the plurality of bids based on the allocation requirement and an upper limit. (Note Fig: 3b and see column 5 lines 45-50).

As per claim 9, Boarman discloses, wherein each bid-in the number of order bids is selected based on the allocation requirement and the number of order bids maximize revenue.(see column 1 lines 45-60 and column 6 lines 30-40).

As per claim 10, Boarman discloses, further comprising: repeating the selecting and setting steps for any remaining portion of the unallocatable portion and any remaining order bids in the plurality of bids. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 11, Boarman discloses, wherein the price of the number of order bids is less than a price for the first bid. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 12, Boarman discloses, wherein the number of order bids includes a bid accepting a partial allocation of a quantity for the bid. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 13, Boarman discloses a data processing system comprising: a bus system;  
a communications unit connected to the bus system; a memory connected to the bus system, wherein the memory includes as set of instructions, and a processing unit

connected to the bus system, wherein the processing unit executes the set of instructions to receive a plurality of bids through the communications unit.(see column 3 lines 50-65 and column 4 lines 5-35) sort the plurality of bids by decreasing bid amount to form a sorted set of bids in which each bid includes a quantity and the plurality of bids includes order bids.(see column 2 lines 45-50) identify a first bid within the sorted set of bids having a quantity in which an unallocatable portion is present, select a number of order bids from the plurality of bids in which number of order bids are higher in the sorted set of bids than the first bid and have an allocation requirement less than the unallocatable portion of the of the first bid, set a price for the number of order bids.(see column 1 lines 45-65 and column 6 lines 30-65).

As per claim 14, Boarman discloses, wherein the bus system is a single bus. (see column 3 lines 10-65 and column 4 lines 5-35).

As per claim 15, Boarman discloses wherein the bus system includes a primary bus-and-a secondary bus. (see column 3 lines 10-65 and column 4 lines 5-35).

As per claim 16, Boarman discloses the data processing system of claim 13, wherein the processing unit includes a plurality of processors. (see column 3 lines 10-65 and column 4 lines 5-35).

As per claim 17, Boarman discloses The data processing system of claim 13, wherein the communications unit is one of a modem and Ethernet adapter. (see column 3 lines 10-65 and column 4 lines 5-35).

As per claim 18, Boarman discloses a data processing system-for generating bids for an auction, the data processing system comprising: identifying means for identifying a final equilibrium position for a set of bidding agents; and submitting means for submitting a bid for each of the bidding agents based on the final equilibrium. .(Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).

As per claim 19, Boarman discloses, wherein each of the bidding agents in the set of bidding agents includes an upper limit.(Note Fig: 3b and see column 5 lines 45-50).

As per claim 20, Boarman discloses, wherein the identifying means comprises: sorting means for sorting a plurality of bids by

decreasing bid amount to form a sorted set of bids, wherein bids for the set of bidding agents are sorted using upper limits for the bids for the set of bidding agents. (Note Fig: 3b and see column 5 lines 45-50) identifying means for identifying a first bid from the plurality of bids in which an unallocatable portion of a requested quantity is present; selecting means for selecting a number of bids from the plurality of bids, wherein the number of bids are higher in the sorted set of bids than the first bid and wherein the number of bids have an allocation requirement less than the unallocatable portion of the of the first bid, and setting means for setting a price for the number of bids. (Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).

As per claim 21, Boarman discloses, wherein the sorting means, identifying means, selecting means, and setting means are repeated for unallocated items, remaining bids, and remaining unpriced order bids.

As per claim 22, Boarman discloses a data processing system for generating bids for bidding agents in an auction, the data processing system comprising: sorting means for sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids includes order bids.(see column 2 lines 45-50) identifying means for identifying a first bid requesting a quantity in which an unallocatable portion is present, selecting means for selecting a number of order bids from the plurality of bids, wherein the number of order bids are higher in the sorted set of bids than the first bid and have an allocation requirement less than the unallocatable portion of the of the first bid, and setting means for setting a price for the number of order bids.(see column 1 lines 45-60 and column 6 lines 45-65).

As per claim 23, Boarman discloses, wherein the number of order bids is a single order bid. (see column 1 lines 15-20).

As per claim 24, Boarman discloses, wherein each bid in the number of order bids is selected from the plurality of bids based on the allocation requirement, upper limit, and a time when each order bid in the number of order bids was received. (Note Fig: 3b and see column 5 lines 45-50).

As per claim 25, Boarman discloses wherein each order bid in the number of order bids is selected from the plurality of bids based on the allocation requirement and an upper limit. (Note Fig: 3b and see column 5 lines 45-50).

As per claim 26, Boarman discloses wherein each bid in the number of order bids is selected based on the allocation requirement and the number of order bids maximize revenue. (see column 1 lines 45-60 and column 6 lines 30-40).

As per claim 27, Boarman discloses further comprising:  
repeating means for repeating initiation of the selecting means and setting means for any remaining portion of the unallocatable portion and any remaining order bids in the plurality of bids. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 28, Boarman discloses wherein the price of the number of order bids is less than a price for the first bid. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 29, Boarman discloses wherein the number of order bids includes a bid accepting a partial allocation of a quantity for the bid. (see column 1 lines 45-60 and column 6 lines 30-55).

As per claim 30, Boarman discloses a computer program product in a computer readable medium for generating bids for an auction, the computer program product comprising:  
first instructions for identifying a final equilibrium position for a set of bidding agents; and  
second instructions for submitting a bid for each of the bidding agents based on the final equilibrium. (Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).

As per claim 31, Boarman discloses a computer program product in a computer readable medium for generating bids for bidding agents in an auction, the computer program product comprising:  
first instructions for sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids. (Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).  
includes order bids, second instructions for identifying a first bid requesting a quantity in which an unallocatable portion is present. (see column 1 lines 45-60 and column 6 lines



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45-65) and third instructions for selecting a number of order bids from the plurality of bids, wherein the number of order bids are higher in the sorted set of bids than the first bid and have an allocation requirement less than the unallocatable portion of the of the first bid, and fourth instructions for setting a price for the number of order bids. (Note abstract and Fig: 3a-3b and see column 3 lines 25-45 and column 5 lines 15-35).

#### Conclusion

4. The prior art of record and not relied upon is considered pertinent to Applicants disclosure.

Jakobsson et al (US Patent 6, 157, 920) teaches executable digital cash for electronic commerce.

Ye (US 6, 374, 227 Patent) teaches system and method for optimizing the allocation of resource.

Ye (US 6, 321, 207 Patent) teaches system and method for optimizing the allocation of resource.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement B Graham whose telephone number is 703-305-1874. The examiner can normally be reached on 7am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG

June 09, 2004

  
FRANTZY POINVIL  
PRIMARY EXAMINER  
AU 3628